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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/577,647

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Knud E. Johansen

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EXAMINER

SAVANI, AVINASH A

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/577,647	<b>Applicant(s)</b> JOHANSEN, KNUD E.	
	<b>Examiner</b> AVINASH SAVANI	<b>Art Unit</b> 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☒ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/23/2007</u> .   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 6 rejected under 35 U.S.C. 102(b) as being anticipated by Kaiserreiner [842463].

3. With respect to claims 1 and 6, Kaiserreiner discloses: A candle extinguisher comprising a unitary body of a thin-plate material [see FIG 3], said thin-plate material being non-combustible or non-inflammable when exposed to the burning flame of a candle [line 9-10], said body having a ring-shaped part (a) defining an inner space of said candle extinguisher and having an inner diameter at least slightly exceeding the outer diameter of a candle on which the candle extinguisher is to be positioned, said body having a plurality of flexible finger elements (b) extending upwardly from said ring-shaped part, each of said flexible finger elements comprising a proximal part and a distal part, said proximal parts extending substantially in coplanar relationship with said ring-shaped part and being bendable from said coplanar relation outwardly relative to said inner space defined by said ring-shaped part [line 36-39], each of said distal parts being bent substantially perpendicularly relative to a respective proximal part and extending inwardly relative to said inner space defined by said ring-shaped part, each of said distal parts having a length at least exceeding one half of the width of said inner

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space defined by said ring-shaped part [see FIG 1]. From the figures, the similarity is seen in the candle extinguishing element, wherein there are projections that extend perpendicularly from a ring shape from a coplanar edge, wherein the fingers/tongues have a proximal and distal end. With respect to claim 6, it is seen that there are at least three fingers/tongues that fold inwardly, in order to extinguish the flame.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiserreiner ['463].

6. With respect to claim 2, Kaiserreiner discloses the candle extinguisher according to claim 1, however the examiner is taking official notice that the finger elements are made from a material similar to carbon steel and that the thickness is approximate to 50-500u. It would have been obvious to a person of ordinary skill in the art at the time of the invention to have a carbon steel material having an approximate thickness of 50-500u because it would be within their skill to know of suitable materials that are non-flammable and would apply this material so as to safely extinguish the candle, via a material with the proper thickness to respond to the heat to deform initiating a bending motion inwardly.

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7. With respect to claim 7, it is believed that the method is also within the scope of Kaiserreiner's extinguisher since the structure is provided; wherein official notice is taken as to the method steps of cutting a blank and turning the blank into a cylindrical body. It is seen from the figures that there is a cylindrical body since the extinguisher is positioned around the circumference of the candle body. It would have been obvious to a person of ordinary skill in the art at the time to cut a blank to form a web from a sheet in order to "shape" the extinguisher to fit around the candle, since forming blanks is a common skill known in the art to form thin, metal materials, yielding the predictable result of easy manufacturing and low cost.

8. Claims 3-5 rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiserreiner ['463], further in view of Petersson et al [D241465].

9. With respect to claims 3-5, Kaiserreiner discloses the candle extinguisher of claim 1, however in is Petersson et al who teaches the candle extinguisher's design. i.e., the proximal parts having a length at least approximately 2 times the length of said distal parts [see FIG 4], wherein proximal part has a rectangular configuration, the width of the proximal part is one-half the length of the proximal part [see FIG 3], and the distal part having the shape of an isosceles triangle, wherein the base line of which is congruent with the outermost end of the respective proximal part [see FIGs 3 and 4]. In view of Petersson et al, there is candle extinguisher with fingers that have a rectangular base and triangular tips. It would have been obvious to a person of ordinary skill in the art at the time of the invention to have a design of fingers with rectangular and triangular portions, because the design was found in the art.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to AVINASH SAVANI whose telephone number is (571)270-3762. The examiner can normally be reached on Monday- Friday, alternate Fridays off, 7:30-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Avinash Savani/  
Examiner, Art Unit 3749

/Steven B. McAllister/  
Supervisory Patent Examiner, Art  
Unit 3749

/A. S./  
9/12/08